

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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COMMON CAUSE NEW YORK, as an organization and
on behalf of its members; BENJAMIN BUSCHER; SEAN
HENNESSEY; REBECCA LIBED; ANDREW GERALD;
SUSAN MILLER; and SARAH MILAM;

Plaintiffs,

**STIPULATION OF
SETTLEMENT OF PRIVATE
PLAINTIFFS' CLAIM FOR
ATTORNEYS' FEES AND
COSTS**

v.

16 CV 6122 (NGG)(RML)

BOARD OF ELECTIONS IN THE CITY OF NEW
YORK; MARIA R. GUASTELLA, FREDERIC M.
UMANE, JOSE MIGUEL ARAUJO, JOHN FLATEAU,
LISA GREY, MICHAEL MICHEL, MICHAEL A.
RENDINO, ALAN SCHULKIN, SIMON SHAMOUN,
ROSANNA VARGAS, in their official capacities as
Commissioners of the Board of Elections in the City of
New York; and MICHAEL J. RYAN, in his official
capacity as the Executive Director of the Board of
Elections in the City of New York;

Defendants.

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WHEREAS, on or about November 3, 2016, (the "Complaint"), plaintiffs
Common Cause New York ("CCNY"), Benjamin Buscher ("Buscher"), and Sean Hennessey
("Hennessey"), commenced this action against the Board of Elections in the City of New York,
its Commissioners and Executive Director (collectively, the "Defendants" or the "Board")
alleging that Defendants wrongfully removed Buscher and Hennessey's names from the voter
registration list, in violation of the National Voter Registration Act (the "NVRA") and the New
York Election Law (the "Election Law"), as well as removed the names of other voters from the
voter registration lists in violation of the NVRA and Election Law;

WHEREAS, on or about December 10, 2016, CCNY, Buscher, and Hennessey,
together with Rebecca Libed, Andrew Gerald, Susan Miller, and Sarah Milam (collectively, the

“Private Plaintiffs”) filed an amended complaint alleging that as a result of the Board’s policies and procedures not only the individually named plaintiffs, but also many other formerly registered voters in the city of New York had their voter registrations cancelled in violation of the NVRA and the Election law;

WHEREAS, the United States intervened as a party-plaintiff by filing a complaint in intervention on or about January 18, 2017, alleging that the Board’s list maintenance policies, procedures, and practices violated the NVRA;

WHEREAS, the New York Attorney General intervened as a party-plaintiff by filing a complaint in intervention on or about January 30, 2017, alleging that the Board’s list maintenance policies, procedures, and practices violated the NVRA and the Election Law;

WHEREAS, by order dated December 13, 2017, and entered on December 14, 2017, this Court approved the Consent Decree resolving all of the Private Plaintiffs’, the United States’, and Attorney General of the State of New York’s claims with the exception of the Private Plaintiffs’ claim for attorneys’ fees and costs (the “Fee Claim”);

WHEREAS, the Board and Private Plaintiffs have agreed to settle the Fee Claim pursuant to the terms set forth below and without further proceedings;

WHEREAS, there is no person who is not a party who has any interest in the subject matter of this proceeding; and

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED, by and between the undersigned, as follows:

1. The City of New York hereby agrees to pay Plaintiffs, the sum of \$177,250.00, by payment to Dechert LLP, one of the attorneys for the Private Plaintiffs, within 90 days of receipt of the signed release contained in Exhibit A, in full and final satisfaction of all

monetary claims that were or could have been raised in this action, including claims for costs, expenses and attorney fees.

2. In consideration for payment of these sums and other good and valuable consideration described herein, plaintiffs and their counsel agree to release Defendants, their successors and/or assigns, and all present or former officials, employees, representatives, and/or agents of the Board of Elections in the City of New York, and the City of New York (collectively, the “Released Parties”), from any and all claims, liabilities, and causes of action that were or could have been asserted by plaintiffs and/or their counsel against any of the Released Parties arising out of or related to the events and/or occurrences alleged in the complaint in this action, including all claims for attorney’s fees, expenses, and costs. For the avoidance of doubt, nothing herein releases any claim asserted or that could be asserted against the New York State Board of Elections or the State of New York in *Common Cause/New York v. Brehm*, Case No. 1:17-cv-06770-AJN in the United States District Court for the Southern District of New York, or CCNY’s right to recover attorney’s fees from the New York State Board of Elections or the State of New York in that litigation.

3. In the event that any taxing authority or a court determines that the payment set forth in paragraph “1” herein made to the Private Plaintiffs by the City of New York and/or the Board of Elections in the City of New York is subject to personal income tax, any taxes, interest or penalties owed by plaintiff, such tax, interest, and/or penalties shall be the sole responsibility of plaintiffs and/or their counsel.

4. Private Plaintiffs and their counsel shall execute and deliver to defendants’ attorney all documents necessary to effect this settlement, including, without limitation, a release based on the terms of paragraph 2 above, being substantially in the form annexed hereto as

Exhibit A. The payment set forth above is subject to and conditioned on delivery of such documents to Defendants' undersigned attorneys.

5. Private Plaintiffs represent that, aside from the undersigned counsel (Dechert LLP, the Lawyers' Committee for Civil Rights Under Law, and LatinoJustice PRLDEF), no other counsel has been retained or provided services to the private plaintiffs in connection with this litigation. Private Plaintiffs will have the sole responsibility to satisfy any lien or claim, whether known or unknown, asserted against the settlement proceeds or arising from the settlement.

6. Nothing contained herein shall be deemed to be an admission by Defendants that they have in any manner or way violated Private Plaintiffs' rights, or the rights of any other person or entity, as defined in the constitutions, statutes, ordinances, rules or regulations of the United States, the State of New York, or the City of New York or any other rules, regulations or bylaws of any department or subdivision of the City of New York. This stipulation shall not be admissible in, nor is it related to, any other litigation or settlement negotiations.


7. Private Plaintiffs make no claim of or for vicarious liability against any other party, whether named or unnamed, for any acts or omissions of the Defendants or any Released Party alleged in, related to, or arising from the allegations in the Complaint. Nothing contained herein shall be deemed to constitute a policy or practice of the City of New York and/or the Board of Elections in the City of New York.

8. This Stipulation contains all the terms and conditions agreed upon by the parties hereto, and no oral agreement entered into at any time nor any written agreement entered into prior to the execution of this Stipulation regarding the subject matter of the instant

proceeding shall be deemed to exist, or to bind the parties hereto, or to vary the terms and conditions contained herein.

Dated: New York, New York
February 11, 2018

DECHERT LLP
1095 Avenue of the Americas
New York, NY 10036
Attorney for the Private Plaintiffs

By: 

Neil A. Steiner
Mauricio Alejandro España
May K. Chiang
Negin Hadaghian

New York, New York
February 3, 2018


ZACHARY W. CARTER
Corporation Counsel
of the City of New York
Attorney for Defendants
100 Church Street, Room 2-126
New York, N.Y. 10007
(212) 356-2087

By: 

Stephen Kitzinger
Assistant Corporation Counsel


LAWYERS' COMMITTEE FOR
CIVIL RIGHTS UNDER LAW
1401 New York Avenue NW
Suite 400
Washington, DC 20005
Attorney for the Private Plaintiffs

By:


Ezra D. Rosenberg
John Powers

LATINO JUSTICE PRIDE
99 Hudson Street
14th Floor
New York, NY 10013
Attorney for the Private Plaintiffs

By:


Jose Rerez

SO ORDERED:

HON. NICHOLAS G. CARAFIS
SENIOR UNITED STATES DISTRICT JUDGE


EXHIBIT A

Pursuant to the stipulation of settlement of the private plaintiffs' claim for attorney's fees and costs in *Common Cause New York v. Board of Elections in the City of New York*, 16 cv 6122 (U.S. District Court for the Eastern District of New York,) and in consideration for payment of these sums and other good and valuable consideration described in that stipulation, plaintiffs and their counsel agree to release Defendants, their successors and/or assigns, and all present or former officials, employees, representatives, and/or agents of the Board of Elections in the City of New York, and the City of New York (collectively, the "Released Parties"), from any and all claims, liabilities, and causes of action that were or could have been asserted by plaintiffs and/or their counsel against any of the Released Parties arising out of or related to the events and/or occurrences alleged in the complaint in this action, including all claims for attorney's fees, expenses, and costs.

For the avoidance of doubt, nothing herein releases any claim asserted or that could be asserted against the New York State Board of Elections or the State of New York in *Common Cause/New York v. Brehm*, Case No. 1:17-cv-06770-AJN, in the United States District Court for the Southern District of New York, or CCNY's right to recover attorney's fees from the New York State Board of Elections or the State of New York in that litigation.

Dated: February 11, 2018
New York, NY

DECHERT LLP
1095 Avenue of the Americas
New York, NY 10036
Attorney for the Private Plaintiffs

By: 

Neil A. Steiner
Mauricio Alejandro España
May K. Chiang
Negin Hadaghian

LATINOJUSTICE PRLDEF
99 Hudson Street
14th Floor
New York, NY 10013
Attorney for the Private Plaintiffs

By: _____
Jose Perez

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For the avoidance of doubt, nothing herein releases any claim asserted or that could be asserted against the New York State Board of Elections or the State of New York in *Common Cause/New York v. Brehm*, Case No. 1:17-cv-06770-AJN, in the United States District Court for the Southern District of New York, or CCNY's right to recover attorney's fees from the New York State Board of Elections or the State of New York in that litigation.

Dated: February 6, 2018
New York, NY

DECHERT LLP
1095 Avenue of the Americas
New York, NY 10036
Attorney for the Private Plaintiffs

LATINOJUSTICE PRLDEF
99 Hudson Street
14th Floor
New York, NY 10013
Attorney for the Private Plaintiffs

By: _____
Neil A. Steiner
Mauricio Alejandro España
May K. Chiang
Negin Hadaghian

By:  _____
Jose Perez

LAWYERS' COMMITTEE FOR
CIVIL RIGHTS UNDER LAW
1401 New York Avenue NW
Suite 400
Washington, DC 20005
Attorney for the Private Plaintiffs

By: 
Ezra D. Rosenberg
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